

SUBJECT: BUS EMERGENCY SCHEME (BES) – REQUEST TO ALL COUNCILS TO SIGN UP TO THE BES2 SCHEME

MEETING: CABINET

DATE: 20th January 2021

DIVISION/WARDS AFFECTED: ALL

1. PURPOSE:

To set out the wider context, background and reasons for the Bus Emergency Scheme (BES) and to seek Cabinet approval for Monmouthshire County Council to sign up to the BES2 scheme. It also sets out Welsh Governments (WG) proposed reform of bus services in Wales and seeks Cabinet support in calling for a further report on proposed bus reform relating to future management of bus services in Wales.

(The contents and recommendations of this report are being mirrored in reports in January to Individual cabinet members or cabinets of 'lead' authorities in Wales (Monmouthshire, Swansea, Powys, Flintshire – i.e. those authorities that administer the payments to the bus operators on behalf of the regions) and also to the remaining 18 authorities albeit the recommendation is amended slightly to reflect support for the lead authorities to continue in their role).

2. RECOMMENDATIONS:

- the authority signs up to the BES 2 agreement (Appendix 2) as regional lead authority to secure (conditional) financial support for the bus sector and to establish a relationship with their constituent local authorities that ensures that the ongoing emergency funding meets those authorities' priorities and is delivered on their behalf.
- That approval of any subsequent amendments to the agreement (Appendix 2) be delegated to the chief officer for Enterprise in consultation with the cabinet member other than where any such amendment alters the impact upon MCC such that the chief officer considers it necessary to refer the matter to Cabinet.
- to call for a further report on bus reform proposals relating to the future management of bus services in Wales.

- To note the contents of a report (specific to MCC – Appendix 3) that describes the background to the role of the regional bus team, provides budget forecasts and job descriptions for the members of the team. *As the establishment of the team is budget neutral in MCC terms this report will be submitted to Enterprise DMT to establish the posts within the staff establishment, however the report also indicates that the team is likely to transfer to employment within the CCR City Deal Office at some point in the future.*

3. KEY ISSUES:

Bus travel across Wales has been severely affected by the Covid-19 pandemic. Passenger numbers have plummeted, whilst social distancing and additional cleansing requirements have placed added burdens and costs on operators.

Subsequently, WG and local authorities (LA) have stepped in to support the sector with substantial financial assistance.

There has also been an excellent, ongoing dialogue between all parties to discuss and agree on support arrangements. Prior to the pandemic, WG had consulted on a range of proposed changes to bus service delivery in Wales and a Bus Bill was to be brought forward during the current Senedd term. However, due to pressures associated with not only the pandemic but also the large volume of legal work generated by Brexit, WG was forced to postpone the planned legislation.

Due to the large amount of public funding that goes into bus services from WG and LAs, WG would like to see the public sector having greater influence over areas such as the networks of services provided, ticketing and integration with rail services. It also sees a greater role for Transport for Wales, which is now responsible for rail services in Wales.

This raises two issues: (i) short term survival of operators and (ii) longer term reform of the sector. WG believes that both these issues are linked and should be considered together. In the short term, the funding to keep operators afloat is being provided with a number of conditions designed to incentivise operators to engage in planned changes that are in line with longer-term ambitions for reform.

The Minister of Economy and Transport and North Wales, Ken Skates MS, has met with Leaders of all 22 LAs, along with his officials, to outline WG's direction of travel. Further details have been included in the Wales Transport Strategy (WTS), currently the subject of consultation.

More recently, the Deputy Minister, Lee Waters MS, met with all Leaders to discuss the WTS but also to encourage LA's to sign up to BES2.

This is the latest phase of financial support to help operators through the period of the pandemic. Leaders have agreed to establish a WLGA Bus Member Group, with a focus on the longer-term proposals to reform the sector's operations. That group includes the WLGA Leader (who is also the WLGA's Transport Spokesperson), the deputy Transport Spokesperson, chairs of the four regional transport bodies and the co-chairs of the WLGA Rural Forum. That Member Group is due to meet with Lee Waters on 18th January 2021.

The problems facing operators were recognised an early stage of the pandemic. Looking ahead, to secure their services for the future, local authorities agreed to continue making payments for contracted services even though many services were initially suspended. Alongside this, WG stepped in to help operators deal with reduced income on commercially operated routes and the additional costs incurred. Initially, WG made £29m available from a Hardship Fund, which operated from April 2020 for three months. This Fund was assembled from monies that would otherwise have been paid via Bus Services Support Grant, Mandatory Concessionary Fare reimbursement and the 'My Travel Pass' scheme.

A Bus Emergency Scheme was subsequently introduced in July to provide ongoing support. This became known as 'BES 1' and it continued to maintain operators' income at known historic levels, based on what was being paid to them under previous grant schemes. In return for this financial support, WG signalled that it expected operators to contribute to a reshaping of bus services in Wales – to include improved regional networks with greater integration with rail services, smart ticketing and timetabling.

BES 1.5' was introduced in August and was administered by the lead Authorities (Monmouthshire Council on behalf of the South East Wales Authorities), through whom BSSG had been paid since 2013. It provided £10m of so-called 'ramp up funding' to support the reopening of schools and economic activity. This funding helped to cover the cost of reinstating services suspended when travel restrictions associated with the pandemic were introduced, which was needed to meet increasing demand due to capacity constraints from social distancing.

BES 1.5 was then extended to the end of March 2021 following the announcement of a further support package in September 2020. Operators were again asked to sign up to a range of terms and conditions to access the funding. To date Welsh Government have made an additional £45m available over and above pre-covid budget allocations.

WG, working with Transport for Wales (TfW), are now proposing to enter into a longer-term BES 2 agreement with operators and local authorities to protect services.

It will operate for an initial maximum term of up to 2 years from the date BES 1.5 commenced (i.e. up until 31 July 2022, unless market conditions recover sufficiently for an operator to no longer require BES support for any of its services whether they be contracted or commercial).

BES 2 will continue to address the loss of farebox revenue and the additional costs associated with responding to the pandemic. Under BES 2, WG funding will sit alongside local authority funding provided through the Concessionary Travel Scheme and via Revenue Support Grant and the Bus Services Support Grant to make up any shortfall.

Welsh Government will be a co-signatory to the BES 2 agreement with bus operators, along with Transport for Wales. Given that the agreement is under discussion between Welsh Government, operators and Transport for Wales as well as local authorities, and must be approved by all parties. However, it is also recognised that it may be subject to some changes before it is finalised. Officers will inform members of any changes to the current draft proposal.

Local authorities retain legal responsibilities for bus services and therefore remain central to determining which local services receive this support. Parties need to sign up to the principle of the agreement and the relationship with their Lead Authority, in ensuring that the ongoing emergency funding meets their priorities and is delivered on their behalf. This will provide the legal basis for WG to make payments to the operators. In this way, WG can use its powers to support operators, whereas the additional funding would breach

local authorities' de minimis limits for direct award contracts. (further details in the briefing note in Appendix 1 and the full proposed Agreement is in Appendix 2).

LA's will retain responsibility for services they currently contract directly with bus operators and will need to consider planning for contingencies, such as if the BES2 agreement is not signed or the level of funding for BES2 is reduced during the period of the agreement.

Therefore the key features of BES2 are:

- Maximum term until 31st July 2022 or until market conditions recover sufficiently for an operator to no longer require support / operators enter into an embedded partnership agreement
- development and delivery of a Reference Network, intended to provide a range of benefits to communities; multi-operator ticketing; and operator sign-up to an Economic Contract at the heart of WG's Economic Action Plan (and its principles of fair work, health, decarbonisation, skills and learning etc)
- long term co-operation and co-ordination across TfW, LAs and operators by entering into partnerships with a clear set of obligations and shared standards
- one agreement per operator in each of the regions that they work in, signed by WG, TfW, a lead authority and the operator
- operators will be allowed to make a (capped) profit on services that has not been possible under emergency funding to date.

Looking beyond BES 2, discussions are starting to take place in relation to the planning of future networks and the respective roles of WG, TfW, LAs and operators. Given the importance of bus services supporting wider Authority and Welsh Government policies, the reference bus network will need to be designed and agreed collectively by WG, TfW and LAs and discussed with operators. An All-Wales Bus Network officer group has been established to progress the thinking around this

It is important to note however that network design and quality standards are not the prime focus of the BES2 agreement. It will be vitally important for further detailed discussions to take place with elected members on these matters.

This however is not considered a reason to delay the signing of the BES 2 agreement. WG and officers of the Council believe that the BES2 offer will help to engage operators in the discussions about the future, at a time when their income is more dependent than ever on public sector support. In signing up to BES 2, Monmouthshire would be agreeing to financial support of the sector. The Council would not however, be committing to any specific future model of bus service management as that will be the subject of further discussions.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING):

The recommendations in this report seek:

- (a) approval to set up the financial arrangements surrounding the ongoing support for public bus transport and,
- (b) call for a further report on bus reform proposals relating to the future management of bus services in Wales.

As such the recommendation (a) is predominantly around the financial agreement to maintain public bus transport for a period of up to 2 years and (b) asks for further information and recommendations be brought forward in a future report.

There are undoubtedly EqIA and Future Regenerations implications surrounding the future provision of public (bus) transport and these will be addressed in a full FGEA as and when any further reports are presented that address the future provision of public bus services.

However in the event of Cabinet (or any other of the South East Wales local authorities) not approving the recommendations of this report then a further report must be prepared to consider what options exist for the future support of public bus operators and the implications of failing to do so.

5. OPTIONS APPRAISAL

Cabinet approves the signing up of the Council to the Bus Emergency Scheme (BES) 2 and supports a call for a further report from Welsh Government on their proposed bus reforms relating to management of services in Wales

The benefit for operators is that a longer term funding agreement will be provided (up to July 2022) that assists planning and continuity of services. The ability to make a profit under the terms of BES 2 will assist future investment. No profit has been allowed in the emergency arrangements up to now.

The benefit for the public sector is that we can jointly better manage the recovery of bus services, whilst maintaining a core public bus network. The likely alternative impact of failing to take action is, as recovery begins, operators will shrink their networks to the routes and services that are commercially viable leaving the public sector to support an even larger subsidised bus service network.

The BES 2 arrangements are therefore seeking to ensure that operators are incentivised to support the recovery of the whole network and not just a limited number of commercial routes.

The public sector is taking the farebox risk under BES 2 and, as farebox levels rise, this revenue will augment the funding available to work with operators to support the recovery of services. This will benefit both sectors in the long term by building passenger confidence in a reliable and comprehensive public transport network.

Although recovery from the impact of the COVID 19 on patronage is likely to be slow, we do not expect operators to stay within the BES 2 arrangements forever. As passenger confidence returns and farebox recovers, we expect operators to exit the BES 2 arrangements and work with us under partnership agreements.

The partnership agreements will be based on agreed core sets of principles and behaviours that will be developed with operators as part of the BES 2 agreement.

The option remains not to support the recommendation. Should this authority (or any other authority in South East Wales region) not support the recommendations then a further report that describes the implications of failing to gain agreement amongst the local authorities and the options that remain for support of the public bus services in the region will be drafted on behalf of the region member authorities. However failure to gain support across Wales will also have implications upon how a national bus strategy will develop and this will also need to be addressed within the report.

6. EVALUATION CRITERIA

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Operators choose not to sign the BES 2 agreements and instead shrink their networks to the minimum required and/or reduce the quality of their services to make a commercial return.	M	M	Officers continue working with operators to address their concerns and ensure that all parties see this as a beneficial arrangement.	Chief Officer Enterprise
The BES 2 arrangements breach competition, state aid or procurement law and are rendered invalid	L	L	WG/LA legal teams to ensure that the terms of the BES2 are compliant.	WG/LA legal teams
Operators challenge the local authority's ability to let new contracts on routes where the operator has registered a commercial service	L	M	Standards specified as part of BES2 provide an objective way to defend the local authority's right to let a supported contract where the service offered by the operator does not meet the specified standard. <i>Legal advice and guidance provided by WG to support this statement.</i>	Chief Officer Enterprise
Additional funding from Welsh	L	L	WG have committed additional funding from September 2020 to support local bus services	WG Chief Officer Enterprise

Government beyond the end of March 2021 is yet to be confirmed			and officials are working to secure further funding to support these key services beyond the 2020/21 budget horizon.	
Funding operators in this way is not cost effective and/or operators are not incentivised to be efficient	L	L	Analyse data from operators to assess the cost effectiveness of the spend and shape contract terms to incentivise efficiency.	WG Chief Officer Enterprise

7. REASONS:

The signing of the BES 2 agreement is crucial to maintaining local bus services for the future and working in partnership with Welsh Government, Transport for Wales and Bus Operators to develop new bus networks for the future

8. RESOURCE IMPLICATIONS:

BES 2 is Welsh Government funded. Whilst there no direct cost to the authority, the partnership assumes current bus service contracts will be maintained. The MCC staff that are employed in administering the various bus grants are funded by WG so there are no staff costs associated with administering the scheme (existing or proposed).

9. CONSULTEES:

WLGA
Welsh Government
Transport for Wales
Chief Officer Enterprise
Cabinet Member for Infrastructure and Neighbourhood Services
Section 151 Officer
SLT
MCC legal team

10. BACKGROUND PAPERS:

WLGA briefing note – Appendix 1

Draft agreement – Appendix 2

Briefing report for MCC to describe budget background and implications plus JD's – Appendix 3

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